

REMARKS/ARGUMENTS

Independent claim 1, and thus, dependent claims 2 – 17, 19 – 22, 24, 25, 27, and 28, due to incorporation by reference, as each of these dependent claims depends back to independent claim 1, has been amended to recite a specific impact resistance of at least 450 grams, measured at a film surface temperature of 0°C, when the film has a thickness of about 67.5 to 68 microns. Support for the impact resistance is disclosed in paragraphs [0087] to [0091].

No new matter has been added by the above amendments, and thus, the Examiner is respectfully requested to enter the amendments.

Overview.

Summarily, the present invention is directed to provision of a chub packaging film with a very good impact strength both under ambient, cool storage and frozen conditions (see paragraph [0016] on page 4 of the description).

This is not taught by Schirmer alone, nor by Schirmer in combination with any of Yoshii, et al. Bekele, or Lind, et al., the specific prior art documents cited by the Examiner.

Further, applicant respectfully submits the following comments regarding these specific prior art documents cited by the Examiner.

Rejection of claims 1- 11, 13, 15, 16, 24, and 25, under 35 US 102(b) as being anticipated by US Patent 4,605,460 to Schirmer.

US patent 4,605,460 to Schirmer was considered to be of relevance as taken alone. Applicant respectfully points out that the impact strength of the Schirmer films can not be as high as 450 g according to the ASTM method at 0°C because Schirmer discloses a "relatively brittle" film before the film is laminated to a heat shrinkable film. A brittle film typically has a low impact strength. The heat shrinkable film seems to be an essential feature of the Schirmer film, whereas in the present application heat shrinkability is not necessary, as heat shrinkability of films may cause problems when the films are used for chub packaging. The Schirmer films thus are used for a completely different purpose and thus are built completely differently.

Accordingly, Schirmer does not teach each and every element of the claimed invention, as is required for a rejection under 102(b). Hence, the Examiner is respectfully requested to withdraw the rejection under 102(b).

Rejection of claims 1 - 17, 19 - 22, 24, 25, 27 and 28 under 35 USC 103(a) as being obvious over US Patent 4,605,460 to Schirmer, in view of US Patent 6,146,726 to Yoshii, et al., US Patent 4,909,726 to Bekele and US Patent 6,074,715 to Lind, et al.

The comments above vis-à-vis Schirmer are incorporated here by reference.

A similar view applies to US Patent 6,146,726 to Yoshii, et al. The properties required for the films of Yoshii, et al. are heat shrinkability, seal through contamination, low temperature sealability and bag making property. These properties are not desired or required for chub packaging. As the films of the present application are intended for chub packaging, a person skilled in the art would not combine the results from Yoshii, et al. with any other documents like for instance US Patent 4,909,726 to Bekele.

Finally, US Patent 6,074,715 to Lind, et al. is also directed to heat shrinkable films and bags. Again, a person skilled in the art would not combine results for heat shrinkable films with other applications and deduce properties for chub packaging.

Accordingly, applicant respectfully submits that a person of ordinary skill in the art would not combine any of the cited documents nor could he arrive at the present invention having a high impact strength for chub packaging.

Hence, the Examiner is respectfully requested to withdraw the rejection under 103(a).

Allowance of claims 18 and 23.

The Examiner indicated in the Office Action that claims 18 and 23 are allowed.

CONCLUSIONS

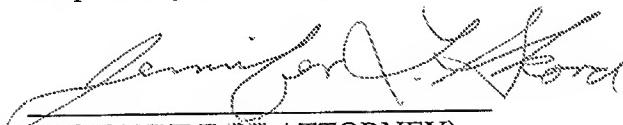
In view of the above amendments and remarks, Applicant respectfully requests the Examiner to withdraw all of the rejections under 102(b) and 103(a).

Applicant respectfully submits that the application is in condition for allowance, and earnestly solicits notification of allowance.

AUTHORIZATION TO CHARGE DEPOSIT ACCOUNT

Although the \$510.00 for the extension fee (small entity) for the 3-month extension of time is being effected by electronic funds transfer and thus it is believed that no additional fee is due, the Commissioner is authorized to charge additional fees which may be required by this paper, or to credit any overpayments, to Deposit Account No. 13-4365.

Respectfully submitted,



(SIGNATURE OF ATTORNEY)

Jennifer L. Skord (Registration No. 30,687)

Tel No.: (919) 286-8000

Moore & Van Allen PLLC
430 Davis Drive, Suite 500
Morrisville, North Carolina 27560

Enc1.: Petition for 3-month extension of time